

EXHIBIT 21

00:00:59 IN THE CIRCUIT COURT OF THE CITY OF ST. LOUIS
00:00:59 STATE OF MISSOURI
00:00:59 The Honorable Rex M. Burlison, Judge
00:00:59
00:00:59 VICKIE FORREST, ET AL.,)
00:00:59)
00:00:59 Plaintiffs,)
00:00:59) Cause No. 1522-CC00419-02
00:00:59 vs.)
00:00:59)
00:00:59 JOHNSON & JOHNSON, ET AL.,)
00:00:59)
00:00:59 Defendants.)
00:00:59
00:00:59
00:00:59
00:00:59
00:00:59 TRIAL TRANSCRIPT
00:00:59 Volume 12
00:00:59
00:00:59 December 17, 2019
00:00:59
00:00:59
00:00:59
00:00:59
00:00:59
00:00:59
00:00:59
00:00:59
00:00:59
00:00:59 JENNIFER A. DUNN, RPR, CCR #485
00:00:59
00:00:59 OFFICIAL COURT REPORTER
00:00:59
00:00:59 CITY OF ST. LOUIS CIRCUIT COURT
00:00:59
00:00:59 TWENTY-SECOND JUDICIAL CIRCUIT
00:00:59
00:00:59 jdunncourts@yahoo.com

Page 2340

09:51:41 1 And what's not on here is that talc is generally
09:51:46 2 regarded as safe by the FDA. It's a GRAS substance, so it
09:51:50 3 can be put into food products and you can chew gum. That
09:51:56 4 white powdery stuff may very well be talcum powder that
09:51:59 5 keeps the powder from sticking to the wrapper, so it's
09:52:02 6 used -- it's considered to be quite benign and inert.
09:52:10 7 Q And most of the talcum powder that is mined in
09:52:12 8 this country, or at least imported into this country, what
09:52:16 9 type of talc it is?
09:52:18 10 A It's overwhelmingly industrial talc.
09:52:20 11 Q Okay. Only 5 percent of talc qualifies as
09:52:23 12 cosmetic grade; is that correct, Dr. Nicholson?
09:52:25 13 A Yes, yes, it is.
09:52:26 14 Q Let's talk a little bit about what Johnson &
09:52:29 15 Johnson does after it qualifies a mine and starts mining
09:52:35 16 talc for its baby powder products.
09:52:38 17 Describe to us what we're looking at here and the
09:52:40 18 process that Johnson & Johnson employs, if you will.
09:52:43 19 A Right. So we talked already about picking the
09:52:47 20 right mines, so mines that have that very white, floofy,
09:52:50 21 platy form talc. And so that's the first step, and it's not
09:52:56 22 as simple as I'm saying. We have geologists that go in
09:52:59 23 there, and there's this process of basically taking all
09:53:02 24 these samples and they map out what's called the ore body,
09:53:07 25 so very extensive, people with expertise do that, and

Page 2341

09:53:12 1 it's -- very complex documents are generated.
09:53:15 2 And then as the material is taken out of the mine,
09:53:18 3 presuming it meets our criteria, rock continues to get
09:53:22 4 tested as we go in because as soon as you take out a piece
09:53:26 5 of rock, there is a new piece of rock. So selecting a mine,
09:53:30 6 making sure you're going into the right direction of the ore
09:53:33 7 body, and the new material is just as good and high quality
09:53:38 8 as you anticipate.
09:53:40 9 And then as the material goes through the process,
09:53:41 10 big blocks go out and gets crushed into small pieces. Those
09:53:47 11 pieces get individually examined by somebody by expertise.
09:53:50 12 That goes from China to Houston, Texas, where it gets ground
09:53:55 13 up. That material gets tested again.
09:53:59 14 Q Is that the milling process?
09:54:00 15 A That's correct. Milling is basically grounding up
09:54:03 16 until you get a fine powder. They take baseball size pieces
09:54:08 17 and put them into a machine and it gets grounded up. That
09:54:12 18 gets tested again for various impurities such as asbestos.
09:54:16 19 Then there's washing and floating, which
09:54:18 20 essentially gets the platy form talc that I was mentioning,
09:54:21 21 the plates, it helps to sort of maximize the amount of platy
09:54:24 22 form talc and then that obviously gets tested as well, and
09:54:28 23 then there's testing of the material that goes into the
09:54:31 24 bottles right before packaging.
09:54:34 25 Q Okay. And if Johnson & Johnson gets a test

Page 2342

09:54:39 1 finding at any of these steps that is not suitable for baby
09:54:43 2 powder, what does it do?
09:54:45 3 A Well, that almost never happens, but if it were to
09:54:51 4 happen, it would be a full stock, that material would be
09:54:54 5 rejected and the whole system would kick in to investigate
09:54:58 6 why was that there, because if it makes it to any one of
09:55:02 7 these stages, the presumption, not the presumption, the fact
09:55:05 8 it has passed all those tests before.
09:55:09 9 So it would be a very surprising finding, and a
09:55:12 10 whole bunch of staff to figure out how that went wrong or
09:55:16 11 how it got into the product or the material that was
09:55:19 12 intended to make the product.
09:55:20 13 Q And as part of your role in Johnson & Johnson and
09:55:22 14 part of getting ready to come in here to talk to our jurors
09:55:25 15 today, have you seen test results that document exactly what
09:55:28 16 we have on this slide, the testing at each stage of this
09:55:32 17 process from the mine to the bottle?
09:55:35 18 A I have. I've looked at stacks and stacks of test
09:55:38 19 results, and something that is super important when looking
09:55:42 20 at those test results is to know where is this sample from,
09:55:46 21 what they call the provenience of the sample, right, who did
09:55:50 22 it, where did it come from, what is it mapped to in terms of
09:55:55 23 samples, because you can see the samples come from a number
09:55:57 24 of different places here.
09:56:01 25 Q Dr. Nicholson, tell us a little bit about the

Page 2343

09:56:02 1 testing that goes on regularly on Johnson & Johnson's -- on
09:56:08 2 the talc that ultimately makes it into a baby powder product
09:56:12 3 if you would?
09:56:12 4 A Yes. So there -- as I mentioned, we're in a
09:56:16 5 quality system, which means there's a big machine going on
09:56:20 6 at all times to check, recheck, and double check. That is a
09:56:24 7 quality system. So as the product is being milled and mixed
09:56:27 8 and blended and so forth, every hour of every shift samples
09:56:31 9 are taken and that happens five days a week, 49 weeks a
09:56:35 10 year, and amounts to hundreds and hundreds of thousands of
09:56:40 11 different tests that are done over time.
09:56:43 12 Q And are these tests that we have represented here,
09:56:46 13 are they something called a composite test?
09:56:49 14 A Yes. So composite test, they basically combine
09:56:53 15 material, mix it around and test that, and it's a
09:56:55 16 statistically determined method for including a lot of
09:56:59 17 materials in given tests.
09:57:02 18 Q What would you say if somebody was critical that
09:57:04 19 only a small amount in this composite system is tested each
09:57:08 20 time, how -- how does Johnson & Johnson ensure that that's
09:57:12 21 representative of what it's testing?
09:57:14 22 A Well, so, there are mathematical ways to show
09:57:18 23 representativeness of different samples, and so these are
09:57:21 24 calculated to be representative of all the material that
09:57:26 25 goes into that composite. I can't do the math myself, but

Page 2588

17:01:34 1 work, and we'll pick it up in the morning.
17:01:37 2 I'm required to remind you, please keep an open
17:01:40 3 mind until all of the evidence is in. Do not discuss this
17:01:43 4 case with others or permit others to discuss it within your
17:01:48 5 hearing.
17:01:48 6 Do not form or express any opinions about the case
17:01:52 7 until the case is given to you to decide. Do not do any
17:01:56 8 research or investigation on your own.
17:02:00 9 And, once again, if you find yourself in a
17:02:03 10 situation where information about this case comes your way,
17:02:06 11 please refuse the information, remove yourself from the
17:02:10 12 situation, and report the conduct.
17:02:13 13 All right. We'll see you tomorrow morning. You
17:02:14 14 are excused.
17:02:55 15 (The following proceedings were had in open
17:02:55 16 court, outside the presence and hearing of the jury:)
17:02:57 17 THE COURT: Okay. You may be seated. Do we
17:02:59 18 have something you want to take up?
17:03:02 19 MR. HEGARTY: Yes, your Honor.
17:03:02 20 THE COURT: Mr. Hegarty.
17:03:05 21 MR. HEGARTY: Do you want to take up the
17:03:06 22 couple of objections with regard to Dr. Diette's deposition?
17:03:10 23 THE COURT: Okay. How do you spell his name?
17:03:14 24 MR. HEGARTY: D-I-E-T-T-E.
17:03:17 25 THE COURT: And it's pronounced Diette?

Page 2589

17:03:20 1 MR. MEADOWS: What are we doing, Mark? I
17:03:22 2 couldn't hear you.
17:04:05 3 MS. PARFITT: Your Honor, can I work with
17:04:06 4 Counsel and see if we can resolve it?
17:04:09 5 MR. HEGARTY: And we'll come in early if we
17:04:11 6 need to and we can do it before the jury comes in.
17:04:15 7 THE COURT: Anything else tonight? Everyone
17:04:18 8 have a good evening. We'll see you tomorrow. Court's
17:04:21 9 adjourned.
17:04:22 10 (Proceedings stood in temporary recess at
17:04:22 11 5:10 p.m.)
17:04:22 12 END OF VOLUME 12. PLEASE REFER TO VOLUME 13A.
17:04:22 13
14
15
16
17
18
19
20
21
22
23
24
25

Page 2590

17:04:22 1 CERTIFICATE
17:04:22 2 I, Jennifer A. Dunn, Registered Professional
17:04:22 3 Reporter and Certified Court Reporter, do hereby certify
17:04:22 4 that I am an Official Court Reporter for the Circuit Court
17:04:22 5 of the City of St. Louis; that on December 17, 2019, I was
17:04:22 6 present and reported all the proceedings had in the case of
17:04:22 7 VICKIE FORREST, et al., Plaintiffs, vs. JOHNSON & JOHNSON,
17:04:22 8 Defendant, Cause No. 1522-CC00419-02.
17:04:22 9 I further certify that the foregoing pages
17:04:22 10 contain a true and accurate reproduction of the proceedings.
17:04:22 11
17:04:22 12
17:04:22 13
17:04:22 14
17:04:22 15
17:04:22 16 "/s/JENNIFER A. DUNN, RPR, CCR #485"
17:04:22 17
18
19
20
21
22
23
24
25